

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ALAN M. SMITH,

Petitioner,

DECISION AND ORDER

03-CV-6553L

v.

TIMOTHY MURRAY,

Respondent.

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The Court has referred all pretrial motions in this case to United States Magistrate Judge Victor E. Bianchini pursuant to 28 U.S.C. § 636(b). Dkt. #10. On August 1, 2007, Magistrate Judge Bianchini issued a Report and Recommendation (“R&R”) recommending that the petition for a writ of habeas corpus be denied. Dkt. #11.

Under Rule 72(b) of the Federal Rules of Civil Procedure, and Rule 72.3(a)(3) of the Local Rules of Civil Procedure for this district, petitioner had ten days after receipt of a copy of the R&R to file any objections to it. Petitioner has not done so, nor has he sought an extension of time in which to file objections.<sup>1</sup>

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<sup>1</sup>According to the New York State Department of Corrections internet inmate lookup service, <http://nysdocslookup.docs.state.ny.us>, petitioner was released from custody in August 2006.

Having reviewed the R&R, I agree with Magistrate Judge Bianchini's findings and conclusions, and I accept and adopt the R&R in its entirety. The petition is therefore dismissed.

### **CONCLUSION**

The Report and Recommendation of United States Magistrate Judge Victor E. Bianchini (Dkt. #11) is in all respects accepted. Respondent's motion to dismiss the petition is granted and the petition is dismissed with prejudice.

IT IS SO ORDERED.



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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
September 5, 2007.